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9 DEPUTY FREDDY PADILLA
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12 UNITED STATES DISTRICT COURT
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14 CENTRAL DISTRICT OF CALIFORNIA
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18 JAY RUSSELL SHAFER,
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21 Plaintiff,
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24 v.
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27 COUNTY OF SANTA BARBARA,
28 BILL BROWN, individually and as
Sheriff of Santa Barbara County,
SANTA BARBARA SHERIFF'S
DEPARTMENT, DEPUTY FREDDY
PADILLA, #2465 individually and as a
peace officer, DOES 1-10, inclusive,

Defendants.

Case No: 2:11-cv-08110-FMO-FFM

**DEFENDANT'S OPPOSITION
TO PLAINTIFF'S SUPPLEMENT
TO MOTION FOR ATTORNEY'S
FEES; DECLARATION OF
MARY PAT BARRY**

Judge: Hon. Fernando M. Olguin
Courtroom: 22 – 5th Floor Spring St.

Defendant Deputy Freddy Padilla presents the following opposition to
Plaintiff's Supplemental Declaration and Exhibit 3 to Motion for Award of
Attorney Fees and Costs, which was filed March 16, 2015 as Document 209.

I. PLAINTIFF’S REQUEST FOR AN AWARD OF ATTORNEY’S FEES FOR TIME SPENT MAKING POST-TRIAL FALSE ALLEGATIONS OF DISCOVERY VIOLATIONS AGAINST DEFENDANTS SHOULD BE DENIED.

Plaintiff’s counsel, in Exhibit 3-A to Plaintiff’s Motion for Award of Attorney Fees and Costs, seeks attorney’s fees for billing record entries described as follows:

1. 2/12/2015: “New 148 incident with Padilla that he lied about in discovery. Emailed plaintiff.”

It is impossible to know the amount of attorney time Plaintiff’s counsel attributes to this specific item. Plaintiff’s counsel has combined his billing entry regarding this item with other subject matter (“Completed FRCP50(b) and 59 opp.”) and sets forth one undivided figure of 3.50 hours and a total fee for those hours of \$2,450.00.

2. 2/13/2015: “Email with Mary re revelations that there were other complaints against Padilla that did not show up in the discovery responses. Mary sent me Bates nos I cannot locate.” Plaintiff’s counsel seeks fees of \$280.00 for this billing entry.

As set forth in the Declaration of Mary Pat Barry filed concurrently with and in support of this opposition, the above billing entries concern Plaintiff’s counsel’s post-trial failure to carefully review discovery produced to Plaintiff to locate an arrest report he was seeking. Instead, Plaintiff’s counsel failed to locate the item, concluded that Deputy Padilla and the County of Santa Barbara had violated discovery rules, and spent time composing a lengthy e-mail containing false allegations against Deputy Padilla and the County of Santa Barbara and threatening referral to the U.S. Attorney’s Office.

Plaintiff’s counsel’s allegations against Deputy Padilla of lying under oath and against Deputy Padilla and the County of Santa Barbara of violating

1 discovery rules were patently false. As reflected in the series of e-mails between
 2 Plaintiff's counsel and defense counsel, attached to the Declaration of Mary Pat
 3 Barry, Defendants served Plaintiff in January 2013 with the report he alleged
 4 was withheld.

5 In the event an award of attorney's fees to Plaintiff is made in this case,
 6 any time Plaintiff's counsel spent post-trial pursuing and asserting his false
 7 allegations of discovery violations against Defendants should be excluded from
 8 calculation of the lodestar as time not reasonably spent on the litigation of this
 9 matter.

10 Dated: March 18, 2015

MICHAEL C. GHIZZONI
 COUNTY COUNSEL

12 By: /S/ - Mary Pat Barry
 13 Mary Pat Barry
 14 Sr. Deputy County Counsel
 Attorneys for Defendant
 DEPUTY FREDDY PADILLA

PROOF OF SERVICE
STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA

I am a citizen of the United States and a resident of the county aforesaid; I am over the age of eighteen years and not a party to the within entitled action; my business address is 105 East Anapamu Street, Santa Barbara, California.

On March 18, 2015, I served a true copy of the within **DEFENDANT'S OPPOSITION TO PLAINTIFF'S SUPPLEMENT TO MOTION FOR ATTORNEY'S FEES; DECLARATION OF MARY PAT BARRY** on the Interested Parties in this action by:

☒ electronic transmission via CM/ECF to the persons indicated below:

Thomas E. Beck, Esq.
THE BECK LAW FIRM
10377 Los Alamitos Boulevard
Los Alamitos, California 90720
email: becklaw@earthlink.net

☒ (Federal) I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

Executed on March 18, 2015, at Santa Barbara, California.

/s/-D'Ann Marvin